

## **REMARKS**

This is regarding the response to Office Action of May 17, 2005 of patent application identified above. In this response, Applicant has amended Claims 1-7 in order to particularly point out and distinctly claim the subject matter that Applicant deems to be the invention. Applicant respectfully submits that the modifications to the claims are fully supported by the content of the originally filed application.

The rejection of previously filed Claims 1-4 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regard as invention has being corrected. The undefined recitation “slides relatively” is replaced.

The rejection of previously filed Claims 1, 2, and 5 under 35 U.S.C. §102(b), as being anticipated by Pillosio #4,054,033 hereinafter respectively referred to as Pillosio is hereby traversed and reconsideration is respectfully requested.

Applicant respectfully submits that revised claims 1, 2, and 5 are patentable over the cited reference, whether taken alone or in combination with known methods in the art.

As disclosed by Pillosio, FIG 3, the shoring device has vertical rails 22 extending from the bottom to the top of the trench, which are supported by at least one horizontal strut 34 pined onto points 24 to allow each vertical rail 22 to pivot relative to horizontal strut 34. The vertical rail 22 has opposing sides to slide the panel 10 on either side of the vertical rail 34 in order to connect successively several combinations of panels 10, vertical rails 22 and horizontal strut 34. Therefore, the shoring device is used in a leap-frog scheme by mean that at one end of the trench one set of panels, rails and horizontal strut are installed while on the other end are removed form the ground. A such shoring device could not be dragged within the trench. The panel 10 is fully engaged on the guide of the vertical rail 22.

Applicant revised claim 1, defines a shoring device comprising shoring panels and strutting assemblies only at discard of vertical rails. The vertical strut 2 as component of the strutting assembly is not equivalent and is not to be confused with vertical rail 22 like those cited in the previous art including Pillosio, for the following reasons:

- The vertical strut 2 in the application does not extend from the bottom to the top of the trench.
- The vertical strut 2 in the application engages only partial length of the guide of the panel 1.
- The vertical strut 2 in the application has one panel guide only so that the panel can slide on one side only allowing the shoring device to be dragged within the trench as a unit.
- Either end of the horizontal strut 3 in the application is rigidly fastened onto one vertical strut 2 preventing pivoting or vertical displacement between them.

Therefore, Applicant respectfully requests that the rejection of Claim 1, 2 and 5, under 35 U.S.C. §102(b) as being anticipated by Pillosio, as set forth in the Office Action be reconsidered and withdrawn.

The rejection of previously filed Claims 1, 2, 4 and 5 under 35 U.S.C. §102(b), as being anticipated by Hess #5,310,289 hereinafter respectively referred to as Hess is hereby traversed and reconsideration is respectfully requested.

Similar to Pillosio, Hess discloses a device in the category of slide rail shoring system, comprising vertical rails 1, panels 4 and 5 and strutting frame 6. The difference with Pillosio resides on the fact that unlike Pillosio whose horizontal strut 34 is pinned to pivot relative to the vertical rail 22, the strut frame 6 in Hess moves vertically relative to vertical rails 1. However, in both cited references (Hess, Pillosio) the strut frame is not provided with vertical guides to allow the panels to slide vertically within. Therefore, the same differences in structure and function presented above for Pillosio relative to the application are valid for Hess as well.

Therefore, Applicant respectfully requests that the rejection of Claim 1, 2, 4 and 5, under 35 U.S.C. §102(b) as being anticipated by Hess, as set forth in the Office Action be reconsidered and withdrawn.

The rejection of previously filed Claims 3 under 35 U.S.C. §103(a), as being unpatentable over Pillosio '033 or Hess '289 in view of Scheepers '440 hereinafter respectively referred to as Scheepers is hereby traversed and reconsideration is respectfully requested.

The device disclosed by Scheepers does not have a cutting edge on the top of the panel. Scheepers panel has a triangular piece 33 not continuos along the top of the panel allow this last to move backward under the panel sitting above it. In Page 4 line 44 Scheepers write the following "As a consequence of the inclined course of the triangular profile 33 at the top part, a lower pile planking element may easily move backwards, provided the guide means will allow this. The upper profile 33 does not extend over full length of the pile planking element but is locally interrupted at 34..." It is clear from the citation, that Scheepers panel does not have a second cutting edge and it would not work if turned upside down. Applicant's panels is universal, it works upside down and inside out because of the two cutting edge and their reverse orientation.

Therefore, Applicant respectfully requests that the rejection of Claim 3 as set forth in the Office Action be reconsidered and withdrawn.

## CONCLUSION

For all the above reasons, Applicant submits that the specifications and claims are now in proper form, and that the claims all define patentably over the prior art. Therefore, Applicant submits that this application is now in condition for allowance, which action he respectfully solicits.

### *Conditional Request for Constructive Assistance*

Applicant has amended the specification and claims of this application so that they are proper, definite, and define novel structure, which is also unobvious. If, for any reason this application is not believed to be in full condition for allowance, Applicant respectfully requests the constructive assistance and suggestions of the Examiner pursuant to M.P.E.P. §2173.02 and §707.07(j) in order that the undersigned can place this application in allowable condition as soon as possible and without the need for further proceedings.

Very respectfully,

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